IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 22157 of 2007(K)

CMA.19/1999 of DISTRICT COURT, THALASSERY
OS.460/1995 of ADL.SUB COURT, THALASSERY
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PETITIONER:

KANIYATTIL UMMAKULSU,
D/O.KAMAL,AGED 50 YEARS, KOODALI AMSOM,
MUTTANNUR DESOM, P.O.EDAYANNUR, KANNUR DISTRICT.

BY ADV. SRI.M.K.SUMOD
SRI.KAUSER EDAPPAGATH

RESPONDENTS:

O.MOHANAN, AGED 57 YEARS,
S/O.GOPALAN, BUSINESS, AZHIKODE AMSOM, DESOM,
P.O.AZHIKODE, KANNUR DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 22157 OF 2007

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Dated this the 19th day of July, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside Ext.P5 order passed in CMA 19/99 of the District Judge, Thalassery. An exparte decree was passed against which the defendant moved an appeal for setting aside it by filing a CMA. The learned District Judge allowed the appeal and set aside the exparte decree on condition that the appellant deposits an amount of Rs.70,000/- in 45 days. Further, it is stated that "It is made clear that in case the direction is not complied within the said time, the appeal will stand dismissed in confirmation of the order under challenge". Or in other words, the order of the learned District Judge was a self-working order. The petitioner herein did not deposit the amount in time within the stipulated period of 45 days and filed an application I.A.1251/04 for extending the time. The learned District Judge dismissed that application on the ground since the order passed by him is a self-working order,

by expiry of 45 days the CMA become automatically dismissed and therefore he cannot extend the time and therefore dismissed that application. That order was passed on 25th November, 2004. Now, by invoking the jurisdiction under Article 227 of the Constitution, the writ petitioner wants to set aside Ext.P5 order. It cannot be allowed for more than one reasons. The order has been passed long back in 2004 and an attempt is made to challenge that order after a period of three years. Secondly, that order cannot be interfered with for the reason that the learned District Judge was perfectly right in holding that the said petition was not maintainable for the reason that the order passed by him was a self-working order. When a self-working order attains finality, the remedy for the party is to challenge the original order for appropriate relief which is also not done and it is not pursued before any appropriate authority also. If this Court invokes the jurisdiction under Article 227 of the Constitution in these types of case then there will not be any finality to the civil litigation and it will be failing in its duty to

have real supervisory control of the matters of the civil courts. I do not find any merit in the writ petition and the same is dismissed.

M.N. KRISHNAN, JUDGE.

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